

Impact of Bill 197 on Meeting Rules

Date: July 13, 2020
To: Executive Committee
From: City Clerk
Wards: All

SUMMARY

The Province has introduced legislation that would allow City Council (a) to make remote meeting participation for Council and local boards permanent and (b) to allow Members of Council to act by proxy during meetings.

City Council should extend the current electronic meeting rules for itself and local boards for a period of one year following the termination of provincial and municipal emergencies. This would give Council more experience with these types of meetings to help decide whether to decide if it wishes to make the rules permanent.

City Council should also decide if it wishes to opt-in to the proxy provisions, and if so, direct the City Clerk to report on the implementation options.

Amendments to the Council Procedures require the approval of two-thirds of Members present and voting.

RECOMMENDATIONS

The City Clerk recommends that effective from the date that Bill 197 is passed and proclaimed:

1. City Council extend the electronic participation rules applicable only during a declared emergency currently contained in Municipal Code Chapter 27, Council Procedures, for a period of one year following the later of the termination of the Provincial emergency or the termination of the municipal emergency.
2. City Council extend the electronic participation rules applicable only during a declared emergency currently contained in the Simplified Rules for Advisory Bodies for a period of one year following the later of the termination of the Provincial emergency or the termination of the municipal emergency.

3. City Council authorize its local boards to extend or adopt remote electronic meeting rules for a period of one year following the later of the termination of the Provincial emergency or the termination of the municipal emergency.

4. City Council review the rules for electronic meetings for City Council and its local boards before the expiry of the recommended extensions.

5. City Council request the City Clerk to report to the October 2020 Executive Committee meeting with options for Council to consider with respect to proxies.

FINANCIAL IMPACT

If Council decides to extend or make permanent the electronic participation rules, the City Clerk and Chief Technology Officer may need to make investments in technology solutions to replace the ad hoc arrangements that have been made to support electronic participation during the emergency period. Any additional funding required for meeting support will be included in the annual budget submissions for the City Clerk's Office and Technology Services division.

DECISION HISTORY

On April 30, 2020 City Council adopted amendments to the Council procedures to permit electronic participation by any or all Members of Council during a state of Provincial or municipal emergency. These provisions expire with the termination of the emergencies.

(<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC20.1>)

City Council also authorized its local boards to adopt similar procedural rules during an emergency.

COMMENTS

The Province has introduced legislation amending the meeting rules in the City of Toronto Act including electronic participation and proxies

The Provincial government has introduced Bill 197, the COVID-19 Economic Recovery Act, 2019. Among other things, it amends the meeting rules of the City of Toronto Act. It makes similar amendments to the Municipal Act so that these rules apply to every other Ontario municipality.

1) Electronic participation

The Bill proposes to repeal the existing rules for electronic participation and substitutes rules that permit Council to amend its procedures to permit a member of city council, of a local board of the City or of a committee of either of them, to participate electronically in a meeting to the extent and in the manner set out in the by-law.

The Bill also proposes that:

- a member who is participating electronically in a meeting may be counted in determining whether or not a quorum of members is present at any point in time; and
- a member can participate electronically in a meeting that is open or closed to the public.

2) Proxy rules

The Bill proposes to authorize Council to amend its meeting procedures to provide that, in accordance with a process to be established by the City Clerk, a member of city council may appoint another member of city council as a proxy to act in their place when they are absent.

"Act" in this case could mean any combination of voting, questioning or speaking during a meeting. It does not apply to any duties or responsibilities outside of a meeting.

It also proposes the following rules:

1. A member shall not act as a proxy for more than one member of city council at any one time.
2. The member appointing the proxy shall notify the City Clerk of the appointment in accordance with the process established by the City Clerk.
3. For the purpose of determining whether or not a quorum of members is present at any point in time, a proxyholder shall be counted as one member and shall not be counted as both the appointing member and the proxyholder.
4. A proxy shall be revoked if the appointing member or the proxyholder requests that the proxy be revoked and complies with the proxy revocation process established by the City Clerk.
5. Where a recorded vote is requested, the City Clerk shall record the name of each proxyholder, the name of the member of city council for whom the proxyholder is voting and the vote cast on behalf of that member.
6. Unless the absence is excused by City Council, the absence of a Member who appoints a proxy for a meeting counts towards the limit of 3 consecutive months of absences that result in forfeiture of office.

7. A member who has a pecuniary interest under the *Municipal Conflict of Interest Act* in a matter to be considered at a meeting shall not, if the interest is known to the member, appoint a proxy in respect of the matter and may not act as a proxy for another member.

Recommended Course of Action:

Provided that Bill 197 is ultimately passed and proclaimed, City Council should consider the following three steps:

1) At a minimum, Council should extend electronic participation for the COVID recovery period

The City's current electronic participation rules expire with the termination of the province and municipal emergency declarations. This means that once the latter of these declarations end, all Members must attend meetings of Council, committees and local boards in person.

As the emergencies can be expected to end before the risk of community transmission of COVID-19 has been eliminated, and before a second wave of infection is expected to occur, Council should use the authority in Bill 197, if passed and proclaimed, to extend its electronic participation rules for a period of time - e.g. for one year following the termination of the current emergencies.

City Council should do the same for its local boards and Council advisory bodies by authorizing electronic participation for the same period.

2) Revisit electronic participation before the expiry of the rules

By extending the rules temporarily for one year, City Council can take the time to more carefully evaluate them and take a more considered approach to deciding on permanent measures.

It is expected that, if Council extends the rules, meetings during the recovery period will involve a mix of in-person and electronic attendance at meetings. This may require further procedural amendments and the development of new processes and technology to support this style of meeting.

This will also allow Council to consider whether some limitations or conditions should be placed on electronic participation if made permanent. For example, City Council could limit electronic participation to certain circumstances such as:

- Medical absences
- Parental leave
- Travel on official City business

3) If Council wishes to opt-in to proxies, it should ask the Clerk to report further:

If Council wishes to further explore proxy rules, it should request the City Clerk to report to the October meeting of the Executive Committee with an implementation plan and additional rules for consideration.

This will allow the City Clerk time to establish the processes required by the proposed amendments. It will also address other considerations including whether appointing a proxy will be limited to any particular circumstances such as medical, parental or other absences. If Council does not wish to pursue proxy rules at this time, no action is required at this time as it is an option only.

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SIGNATURE

SUBMISSION AUTHORIZED BY

City Clerk